

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

MICHAEL A. HARRELL,	:	
Plaintiff	:	
vs.	:	CIVIL NO. 1:CV-10-0663
WARDEN THOMAS DURAN, , et al.,	:	
Defendants	:	

O R D E R

AND NOW, this 12th day of January, 2011, upon consideration of the Report and Recommendation of Magistrate Judge Mannion, to which no objections were filed, and upon a review of the record, the Report is approved.

Pursuant to Judge Mannion's recommendations it is Ordered as follows:

- 1) Defendants' motion to dismiss the excessive force claims against defendants Maggs and Cain is denied.
- 2) Defendants' motion to dismiss the excessive force claim against defendant Boatman is granted.
- 3) Defendants' motion to dismiss the excessive force claim against defendants Duran and Motter is granted. The same is denied with respect to the issuance of retaliatory write-ups against plaintiff by said defendants.
- 4) Defendants' motion to dismiss, with respect to defendants Harkey, Klinger and Rigley, is granted.
- 5) Defendants' motion to dismiss claims against Duran, Motter and Boatman concerning plaintiff's grievance complaint arising from his excessive force claim, is granted.
- 6) Plaintiff's request for injunctive relief is denied as moot.

Trial of plaintiff's excessive force claim against Maggs and Cain and his retaliatory claim, against defendants Duran and Motter, shall proceed to trial on the May 2011 trial list, scheduling order to follow.

/s/William W. Caldwell
William W. Caldwell
United States District Judge